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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DAVID HOUGH; *et al.*

Plaintiffs,

vs.

RYAN CARROLL; *et al.*

Defendants.

Case No.: 2:24-cv-02886-WLH-SK

**PLAINTIFFS' MOTION TO FILE
SECOND AMENDED COMPLAINT**

Presiding Judge: Hon. Wesley L. Hsu

Hearing Time: November 29, 2024,
1:30 p.m

Hearing Location: First Street
Courthouse, 350 W, 1st Street,
Courtroom 9B, 9th Floor, Los Angeles,
California 90012

Trial Date: N/A

PLAINTIFFS' MOTION TO FILE SECOND AMENDED COMPLAINT

1 Plaintiffs¹ hereby move to amend their First Amended Complaint by filing a
2 Second Amended Complaint. Attached as Exhibit A is a redline showing the
3 differences between the First Amended Complaint and the proposed Second
4 Amended Complaint. Attached as Exhibit B is a proposed Second Amended
5 Complaint.
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7 All current defendants except Cristine Carroll (who is currently in default),
8 Jared Day (who Plaintiffs have been unable to reach), and the defendants represented
9 by Lloyd Mousilli² agreed to allow Plaintiffs to file a second amended complaint by
10 October 31, 2024. *See* ECF 98; ECF 111; ECF 112; ECF 128; ECF 139. The
11 defendants represented by Lloyd Mousilli have stated, through their attorneys, that
12 they cannot consent to Plaintiffs' motion to file a second amended complaint because
13 those defendants are currently in the process of obtaining new counsel. However,
14 those defendants also have not stated any objections to Plaintiffs amending their
15 complaint, and there would be no grounds for any such objection.
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22 ¹ This matter has been stayed with respect to Plaintiffs who signed a Texas arbitration clause as to those Plaintiffs' claims against Defendants Ryan Carroll, Max K. Day, Max O. Day, Michael Day, Yax Ecommerce LLC, Precision Trading Group LLC, and WA Distribution (collectively, "Jurisdictional Defendants"). (ECF 127). Although there is some confusion about which Plaintiffs signed which arbitration clauses, it appears that the Plaintiffs who signed the Texas arbitration clauses are Isabel Ramos, Anthony Ramos, and Amund Thompson. The proposed Second Amended Complaint includes the Jurisdictional Defendants as defendants. However, as a technical matter, Plaintiffs would have no objection to the Second Amended Complaint being ineffective as to those Plaintiffs' claims against Jurisdictional Defendants.

23 ² The defendants represented by Lloyd Mousilli are Ryan Carroll; Max K. Day; Max O. Day; Michael Day; Yax Ecommerce LLC; Precision Trading Group, LLC; WA Distribution LLC; Providence Oak Properties, LLC; WA Amazon Seller LLC; and Yax IP and Management Inc.; MKD Investment Advisor, LLC; MKD Family Beneficiary, LLC; MKD Family Private Management Company, LLC; Max Day Consulting, LLC; HouTex Farm Equity Partners LLC; Business Financial Solutions Advisory LLC; Evo Maxx LLC; Dreams To Reality LLC; and WWKB LLC.

There would be no grounds for any objection to Plaintiffs’ motion to amend their complaint because Fed. R. Civ. P. 15(a)(2) states that leave to amend should be freely given when justice so requires, and the Ninth Circuit Court of Appeals has stated that “requests for leave should be granted with extreme liberality.” *Moss v. U.S. Secret Serv.*, 572 F.3d 962, 972 (9th Cir. 2009) (internal citations and quotation marks omitted). Leave to amend should only be denied if the amendment (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in litigation, or (4) is futile. *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006). Plaintiffs’ proposed Second Amended Complaint does not suffer from any of those defects. Instead, the Second Amended Complaint adds newly learned facts as allegations three new defendants (Bank of America, First Citizens Bank, and Proficient Supply LLC) as defendants in good faith.

Dated: October 31, 2024

/s/Nico Banks
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WORD COUNT COMPLIANCE CERTIFICATION

The undersigned, counsel of record for Plaintiffs, certifies that this brief contains fewer than 7,000 words, which complies with the word limit of L.R. 11-6.1

/s/Nico Banks

Nico Banks

Dated: October 31, 2024

CERTIFICATE OF CONSULTATION

As noted above, all current defendants except Cristine Carroll, Jared Day, and the defendants represented by Lloyd Mousilli previously agreed to allow Plaintiffs to file a second amended complaint. Plaintiffs have been unable to reach Defendant Jared Day, as described in Plaintiffs' pending renewed motion for substitute on Jared Day. The defendants represented by Lloyd Mousilli have stated, through their attorneys, that they cannot consent to this motion because they are currently in the process of obtaining new counsel. However, those defendants also have not stated any objections to Plaintiffs amending their complaint. Plaintiffs also conferred with Defendant Travis Marker, The Law Office of Travis R. Marker, and Parlay Law Group, A Professional Corporation, who stated that they would not object to this Second Amended Complaint.

/s/Nico Banks

Nico Banks

Dated: October 31, 2024

CERTIFICATE OF SERVICE

On October 31, 2024, I served this brief and accompanying papers via first-class mail to the parties listed below with addresses below their names, and via email to the parties with email addresses below their names:

JARED DAY;
19710 Chara Ct,
Cypress, TX 77433

I declare under penalty of perjury under the laws of the State of California that the foregoing statements in this Certificate of Service are true and correct.

1 /s/Nico Banks

Nico Banks

2 Dated: October 31, 2024

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